

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

KIMBERLY CALDARA,

Plaintiff,

v.

NEW JERSEY TRANSIT RAIL
OPERATIONS, INC.,

Defendant.

Civil Action No. 09-657 (SRC)

OPINION & ORDER

CHESLER, U.S.D.J.

This matter comes before the Court on the appeal by Plaintiff Kimberly Caldara of the Letter Opinion & Order issued by Magistrate Judge Shipp on May 7, 2010 (the “May 7 Order”), as well as the Letter Opinion & Order issued by Magistrate Judge Shipp on September 8, 2010 (the “September 8 Order.”) In the May 7 Order, Magistrate Judge Shipp granted in part and denied in part Plaintiff’s request to depose certain individuals. In the September 8 Order, Magistrate Judge Shipp denied Plaintiff’s motion for reconsideration of the May 7 Order. For the reasons stated below, both Orders will be affirmed.

Plaintiff’s brief on appeal is only slightly more than one page long. Without explanation, Plaintiff calls this motion an “appeal de novo,” apparently a reference to the standard of review to be applied. Plaintiff’s request for *de novo* review is clearly misguided.

Under this district’s case law, district courts, when reviewing decisions about discovery disputes, apply the deferential “abuse of discretion” standard: “Where a magistrate judge is authorized to exercise his or her discretion, the decision will be reversed only for an abuse of that

discretion.” Cooper Hospital/University Med. Ctr. v. Sullivan, 183 F.R.D. 119, 127 (D.N.J. 1998). See also Arnold v. Pennsylvania, 477 F.3d 105, 107 (3d Cir. 2007) (grant of a protective order reviewed for abuse of discretion). In ruling on this discovery dispute, Magistrate Judge Shipp was authorized to exercise his discretion. This Court reviews the May 7 Order for an abuse of discretion. Plaintiff has not shown that Magistrate Judge Shipp abused his discretion.

In support of this appeal, Plaintiff offers only a sketch of an argument, which offers little more than that Plaintiff would have liked much wider discovery, with no justification. This position is thus little more than the conclusory statement that Plaintiff disagrees with Magistrate Judge Shipp’s decision. In the Order of May 7, 2010, on the other hand, Magistrate Judge Shipp conducted the careful and considered balancing required by Federal Rule of Civil Procedure 26(b)(2)(C), which states, *inter alia*, that “the court must limit the frequency or extent of discovery otherwise allowed by these rules . . . if it determines that . . . the burden or expense of the proposed discovery outweighs its likely benefit.” In stating the grounds for his decision to grant some, but not all, of Plaintiff’s deposition requests, Magistrate Judge Shipp correctly explained that the Court must “guard against redundant or disproportionate discovery.” (May 7 Order at 3.)

Plaintiff’s brief on appeal overlooks the balancing done by Magistrate Judge Shipp and makes no effort to persuade that the Court’s concerns about disproportionate discovery were unnecessary or misguided. In the absence of such argument, this Court has no basis to conclude that Magistrate Judge Shipp abused his discretion in limiting the extent of discovery in the May 7 Order.

Plaintiff has failed to persuade this Court that Magistrate Judge Shipp abused his

discretion in issuing the Letter Opinion & Order of May 7, 2010 and the Letter Opinion & Order of September 8, 2010. The May 7 Order and the September 8 Order are affirmed in all respects.

For the reasons stated above,

IT IS on this 20th day of October, 2010

ORDERED that Plaintiff's appeal of Magistrate Judge Shipp's May 7 Order and September 8 Order (Docket Entry No. 25) is **DENIED**; and it is further

ORDERED that Magistrate Judge Shipp's May 7 Order and September 8 Order are hereby **AFFIRMED**.

s/ Stanley R. Chesler
Stanley R. Chesler, U.S.D.J.